

## Employment and Staffing

### Dual Status (DS) Technician Employment

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**Summary of Changes.** This regulation provides policy and guidance regarding the employment of Dual Status (DS) Military Technicians within the California National Guard.

**Applicability.** California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and California Air National Guard technicians and to commanders, managers and supervisors (military or civilian) with authority or responsibility over technician personnel management. The information in this regulation does not apply to California National Guard Non-Dual Status (NDS) technician positions.

**Proponent and Exception Authority.** The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulations.

**Supplementation.** Supplementation of this regulation is prohibited.

**Suggested Improvements.** Users of this regulation are invited to send comments and suggested improvements to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road, Sacramento, CA 95826-9101

**Distribution.** Distribution of the regulation is Army - A and Air Force - F.

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#### 1. Purpose.

This technician personnel regulation provides policy and guidance regarding the employment of Dual Status Military Technicians within the California National Guard.

## **2. References.**

Title 32, United States Code, Section 709 Technicians: Employment, Use, Status; as amended; Public Law 90-486, National Guard Technicians Act of 1968, August 13, 1968; Senate Report No. 1446, National Guard Act of 1968, July 22, 1968; and US Civil Service Commission Letter to CNGB, dated November 18, 1968.

## **3. General.**

Federal status is only operative when the Guard is called or ordered into the federal service. When so called or ordered, it is known as the National Guard of the United States and is subject to the authority of the President, The Secretary of Defense and other authorities, civilian and military of the federal defense establishment.

a. In accordance with Title 32 United States Code, Section 709 [32 USC 709], any position requiring military membership in the National Guard is considered "dual-status" and is in the excepted service.

b. Appointments to National Guard dual-status military technician positions must be made in accordance with 32 USC 709. Military assignment will be to a federally recognized Guard unit in the same State of employment.

c. Selected candidates must meet all job qualifications and military assignment requirements prior to, or simultaneous with, the placement action. This does not preclude tentative selection of a candidate contingent on his or her meeting military requirements prior to effective date of the personnel action. The Adjutant General or his/her designee may authorize exceptions in accordance with compatibility guidelines.

d. Citizenship. Appointees must meet the citizenship requirements of the appropriate military department in which commissioned or enlisted.

## **4. Military Membership.**

Title 32 USC 709 requires dual status military technicians to maintain membership in the National Guard as a condition of continued employment. Loss of membership in the Army or Air National Guard results in termination within 30 days and requires written notification of proposed separation.

## **5. Suitability.**

Technicians must meet the security, suitability and conduct requirements prescribed for all military members and government employees. Suitability refers to identifiable character traits and past conduct that are sufficient to determine whether an individual is likely or unlikely to be able to carry out the duties of the position with appropriate efficiency and effectiveness. It also refers to statutory or regulatory bars, which prevent the lawful employment of an individual. Security, suitability, or conduct standards may also provide for disqualification of an applicant. Reasons for finding an individual unsuitable for employment include previous employment misconduct; criminal or dishonest conduct; intentional fraud in the employment process; substance abuse; and knowing and willful engagement in acts of activities designed to overthrow the United States Government. The selecting supervisor must appraise the candidate's general suitability before making a final selection.

## **6. Compatibility.**

National Guard Dual Status (DS) military technicians required to be members of the National Guard must be assigned to a compatible military position. See CNGFPR 303 for more information.

## **7. Wear of the Uniform.**

In accordance with 32 USC 709(b)(4), a technician will wear the uniform appropriate for the member's grade and component of the armed forces while performing duties as a dual status military technician. The uniform shall be worn in compliance with active duty regulations issued by the applicable military component. Official time will not be used for changing to or from the military uniform at the work site.

## **8. Physical (Medical) Qualification.**

Dual Status technicians must meet medical requirements relating to their technician position and their compatible MOS/AFSC. In most cases, compatible military assignments allow the military program to assess established medical standards and/or physical requirements. If a situation arises where a physical/medical qualification requirement exists and the military assignment has not properly assessed the applicant against those requirements, a physical may be required prior to appointment.

## **9. TDY Travel.**

Dual Status technicians will travel by military aircraft when directed by management officials. The appropriate military uniform will be worn when traveling by military aircraft. Additionally, dual status technicians will occupy Government quarters (if available) based on military grade when in a travel status.

#### **10. General Officer Restrictions.**

Dual status technicians may not be in technician pay status as General Officers unless the position description calls for the incumbent to be the commander of an organized tactical combat unit.

#### **11. Key Staff.**

The Adjutant General has authority to non-competitively assign technicians in order to accommodate either a military assignment at key staff level or an “overarching military consideration”. Competitive procedures, such as the issuance of vacancy announcements, etc. are not required when filling key staff positions. Key staff positions are managerial or supervisory dual status military technician positions encumbered by a member of the immediate staff of The Adjutant General. Incumbent(s) of these positions are simultaneously delegated broad latitude of authority for missions in both their military assignment and full-time technician position. These positions shall not be clerical or administrative in nature and are ineligible for bargaining unit coverage. Simplified merit placement procedures have been developed for key staff positions and are included in CNGTPR 335.

#### **12. Understudy Authority.**

This authority provides management the option of establishing a temporary position to insure program continuity during a transition period. When using this authority, management may select (through merit placement procedures) a fully qualified individual who will understudy (learn program nuances, personal contacts, etc.) of the current incumbent for a short period of time immediately prior to his or her established departure date. The technician may not assume full performance level duties or be promoted until the target position is vacated. Further information can be located in CNGFPR 511.

#### **13. Trial Period.**

The National Guard does not utilize “conditional” status for Dual Status military technicians. Candidates new to the National Guard workforce who have not previously satisfied a trial period must do so. Individuals newly appointed in the National Guard (as dual status military technicians) are required to serve a one-year trial period. The trial period is intended to insure the appointee is capable of performing the duties of the position and to determine whether the technician has the qualities needed for continued Government employment. The following criteria apply:

- a. Only one trial period will be served. The trial period must be served for 12 consecutive months in the same type of work *and* by same appointing office (in the same state).
- b. Creditable service for completion of the trial period includes:
  - (1) Up to 12 months served in a temporary appointment that immediately precedes a permanent appointment providing the work performed was the same type or closely related (within the same job family or has the same basic qualification requirements).
  - (2) Service in a career-conditional or career appointment that immediately precedes a dual status appointment; within the same job family or that has the same basic qualification requirements.
  - (3) Periods of Leave without Pay (LWOP) of 30 days or less, or furlough of 22 workdays or less. The trial period will be extended on a day-to-day basis in those instances where LWOP or furlough exceeds these time periods.
- c. Technicians serving a trial period must be carefully observed and appraised to determine whether they have the qualities needed for permanent Government service. During this period, supervisors are required to provide specific training and assistance necessary to improve or maintain the technician’s work habits and job performance. When the supervisor has counseled and provided sufficient feedback to the technician, the final evaluation and notice should not be a surprise. Recommendation to retain or release a technician serving a trial period should be made by the end of the 10th month. If retention is not recommended, necessary action must be taken to separate the technician from Federal employment.
- d. Removal action may be taken at any time during the trial period. The removal action must be completed within the trial period. A 30-day notice of proposed separation is not required when terminating a technician during a trial period. (32 USC 709 (f) (2) (5))
- e. Adverse action procedures contained in TPR 752 do not apply to discharge during the trial period. The technician serving a trial period has no appeal rights and the action may not be grieved.

#### **14. Supervisory Probationary Period.**

National Guard technicians who enter a supervisory technician position for the first time will serve a supervisory trial period. The purpose of a supervisory trial period is to assess the suitability of an individual to perform supervisory work. Only one supervisory trial period may be served. A supervisory trial period is for a period of time not to exceed 12 months. Individuals who do not successfully complete the supervisory trial period will be considered for voluntary placement at non-supervisory positions at the same or lower grade within the California National Guard. Successful

completion of the supervisory trial period may be annotated on the NGB 904-1 and appraisal. No other documentation is required.

**15. National Guard Dual-Status Technician Qualification Standards.**

National Guard Dual Status Qualification Standards are developed to identify the competencies required to successfully accomplish the duties of the position. The Directorate for Human Resources may modify qualification standards for reassignment(s), voluntary changes to lower grade, and reemployment(s) to the same or lower grades when a candidate does not meet all of the specialized requirements in the NGB Excepted Service Qualification Standards. Statutory qualification requirements may not be modified or waived i.e., positive education requirements, military regulatory requirements, etc. (For information regarding qualifications, see CNGTPR 338.)

**16. Time-in-Grade Requirements.**

Restrictions for meeting time-in-grade advancement requirements do not apply to National Guard military technicians. However, candidates for advancement must demonstrate attainment of essential knowledge, skills and ability to successfully carry out duties and responsibilities at next higher level. An exception to the time-in-grade restrictions does not provide an exception to other applicable requirements, such as qualification standards or merit placement. The 3-month "after appointment" waiting period restricting movement of a recently appointed employee (e.g., reassignment, transfer, promotion or relocation) does not apply to dual status technicians.

**17. Appointment of Active Duty Members.**

Members of Active Duty components may be appointed to positions in the National Guard while serving on "terminal leave" as long as they are able to meet the compatible military assignment criteria for the technician position.

**18. Re-Employment of Annuitants.**

National Guard members receiving federal civil service annuity may be reemployed in DS positions only as long as they maintain compatible military membership. Retired members of the Armed Forces can not meet the requirement for compatible military membership in the California National Guard and may not be re-employed in DS positions.

**19. Details.**

DS technicians may be detailed to another position description or a list of duties in increments of up to 120 days. A detail to any higher graded position description(s) beyond 120 days in the past 12 months are subject to competition IAW CNGFPR 335. There is no limitation on the number of details to the same grade or lower graded position description as long as each separate detail does not exceed 120 days at a time. DS technicians are not required to meet the qualification requirements of the detailed position. A detail may be voluntary or involuntary.

**20 Reassignments.**

DS technicians may be reassigned to another position at the same grade at management's discretion to meet mission requirements. DS technicians must meet the approved qualification standards to be reassigned. A reassignment may be voluntary or involuntary. Notification of an involuntary reassignment will be made by the Directorate for Human Resources

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